

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

| | | |
|-------------------------|---|---|
| JUSTIN M. HEPFL, |) | |
| Plaintiff, |) | |
| |) | C.A. No. 21-64 Erie |
| v. |) | |
| |) | District Judge Susan Paradise Baxter |
| RACHAEL B. BOOT, |) | Magistrate Judge Richard A. Lanzillo |
| Defendant. |) | |

MEMORANDUM ORDER

Plaintiff Justin M. Hepfl, an inmate incarcerated at the State Correctional Institution at Forest in Marienville, Pennsylvania, commenced this action by filing a *pro se* civil rights complaint accompanied by a motion for leave to proceed *in forma pauperis* (“ifp motion”) [ECF No. 1], on January 27, 2021. Named as Defendant is Rachael B. Boot, Plaintiff’s ex-girlfriend and mother of his child. Plaintiff claims that Defendant has deprived him of child visitation rights and seeks an order reinstating his state appellate rights and requiring a paternity test. This matter was referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On April 8, 2021, Magistrate Judge Lanzillo issued a report and recommendation (“R&R”) recommending that Plaintiff’s ifp motion be granted and that this action be dismissed as legally frivolous in accordance with 28 U.S.C. § 1915(e), because Defendant is not a state actor subject to liability under 28 U.S.C. § 1983 [ECF No. 5]. No timely objections have been filed.

After de novo review of the complaint, together with the report and recommendation, the following order is entered:

AND NOW, this 28th day of April, 2021;

IT IS HEREBY ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued April 8, 2020 [ECF No. 5], is adopted as the opinion of the Court, and this case is DISMISSED as frivolous pursuant to 28 U.S.C. § 1915(e). The Clerk is directed to mark this case CLOSED,


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
U.S. Magistrate Judge

all parties of record